

1 AMENDMENT TO HOUSE BILL 579

2 AMENDMENT NO. _____. Amend House Bill 579 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Capital Crimes Litigation Act is amended
5 by changing Section 15 as follows:

6 (725 ILCS 124/15)
7 (Section scheduled to be repealed on July 1, 2004)

8 Sec. 15. Capital Litigation Trust Fund.

9 (a) The Capital Litigation Trust Fund is created as a
10 special fund in the State Treasury. The Trust Fund shall be
11 administered by the State Treasurer to provide moneys for the
12 appropriations to be made, grants to be awarded, and
13 compensation and expenses to be paid under this Act. All
14 interest earned from the investment or deposit of moneys
15 accumulated in the Trust Fund shall, under Section 4.1 of the
16 State Finance Act, be deposited into the Trust Fund.

17 (b) Moneys deposited into the Trust Fund shall not be
18 considered general revenue of the State of Illinois.

19 (c) Moneys deposited into the Trust Fund shall be used
20 exclusively for the purposes of providing funding for the
21 prosecution and defense of capital cases as provided in this
22 Act and shall not be appropriated, loaned, or in any manner

1 transferred to the General Revenue Fund of the State of
2 Illinois.

3 (d) Every fiscal year the State Treasurer shall transfer
4 from the General Revenue Fund to the Capital Litigation Trust
5 Fund an amount equal to the full amount of moneys
6 appropriated by the General Assembly (both by original and
7 supplemental appropriation), less any unexpended balance from
8 the previous fiscal year, from the Capital Litigation Trust
9 Fund for the specific purpose of making funding available for
10 the prosecution and defense of capital cases. The Public
11 Defender and State's Attorney in Cook County, the State
12 Appellate Defender, the State's Attorneys Appellate
13 Prosecutor, and the Attorney General shall make annual
14 requests for appropriations from the Trust Fund.

15 (1) The Public Defender in Cook County shall
16 request appropriations to the State Treasurer for
17 expenses incurred by the Public Defender and for funding
18 for private appointed defense counsel in Cook County.

19 (2) The State's Attorney in Cook County shall
20 request an appropriation to the State Treasurer for
21 expenses incurred by the State's Attorney.

22 (3) The State Appellate Defender shall request a
23 direct appropriation from the Trust Fund for expenses
24 incurred by the State Appellate Defender in providing
25 assistance to trial attorneys under item (c)(5) of
26 Section 10 of the State Appellate Defender Act and an
27 appropriation to the State Treasurer for payments from
28 the Trust Fund for the defense of cases in counties other
29 than Cook County.

30 (4) The State's Attorneys Appellate Prosecutor
31 shall request a direct appropriation from the Trust Fund
32 to pay expenses incurred by the State's Attorneys
33 Appellate Prosecutor and an appropriation to the State
34 Treasurer for payments from the Trust Fund for expenses

1 incurred by State's Attorneys in counties other than Cook
2 County.

3 (5) The Attorney General shall request a direct
4 appropriation from the Trust Fund to pay expenses
5 incurred by the Attorney General in assisting the State's
6 Attorneys in counties other than Cook County and to pay
7 for expenses incurred by the Attorney General when the
8 Attorney General is ordered by the presiding judge of the
9 Criminal Division of the Circuit Court of Cook County to
10 prosecute or supervise the prosecution of Cook County
11 cases.

12 The Public Defender and State's Attorney in Cook County,
13 the State Appellate Defender, the State's Attorneys Appellate
14 Prosecutor, and the Attorney General may each request
15 supplemental appropriations from the Trust Fund during the
16 fiscal year.

17 (e) Moneys in the Trust Fund shall be expended only as
18 follows:

19 (1) To pay the State Treasurer's costs to
20 administer the Trust Fund. The amount for this purpose
21 may not exceed 5% in any one fiscal year of the amount
22 otherwise appropriated from the Trust Fund in the same
23 fiscal year.

24 (2) To pay the capital litigation expenses of trial
25 defense including, but not limited to, investigatory and
26 other assistance, expert, forensic, and other witnesses,
27 and mitigation specialists, and grants and aid provided
28 to public defenders or assistance to attorneys who have
29 been appointed by the court to represent defendants who
30 are charged with capital crimes.

31 (3) To pay the compensation of trial attorneys,
32 other than public defenders, who have been appointed by
33 the court to represent defendants who are charged with
34 capital crimes.

1 (4) To provide State's Attorneys with funding for
2 capital litigation expenses including, but not limited
3 to, investigatory and other assistance and expert,
4 forensic, and other witnesses necessary to prosecute
5 capital cases. State's Attorneys in any county other
6 than Cook County seeking funding for capital litigation
7 expenses including, but not limited to, investigatory and
8 other assistance and expert, forensic, or other witnesses
9 under this Section may request that the State's Attorneys
10 Appellate Prosecutor or the Attorney General, as the case
11 may be, certify the expenses as reasonable, necessary,
12 and appropriate for payment from the Trust Fund, on a
13 form created by the State Treasurer. Upon certification
14 of the expenses and delivery of the certification to the
15 State Treasurer, the Treasurer shall pay the expenses
16 directly from the Capital Litigation Trust Fund if there
17 are sufficient moneys in the Trust Fund to pay the
18 expenses.

19 (5) To provide financial support through the
20 Attorney General pursuant to the Attorney General Act for
21 the several county State's Attorneys outside of Cook
22 County, but shall not be used to increase personnel for
23 the Attorney General's Office, except when the Attorney
24 General is ordered by the presiding judge of the Criminal
25 Division of the Circuit Court of Cook County to prosecute
26 or supervise the prosecution of Cook County cases.

27 (6) To provide financial support through the
28 State's Attorneys Appellate Prosecutor pursuant to the
29 State's Attorneys Appellate Prosecutor's Act for the
30 several county State's Attorneys outside of Cook County,
31 but shall not be used to increase personnel for the
32 State's Attorneys Appellate Prosecutor.

33 (7) To provide financial support to the State
34 Appellate Defender pursuant to the State Appellate

1 Defender Act.

2 Moneys expended from the Trust Fund shall be in addition
3 to county funding for Public Defenders and State's Attorneys,
4 and shall not be used to supplant or reduce ordinary and
5 customary county funding.

6 (f) Moneys in the Trust Fund shall be appropriated to
7 the State Appellate Defender, the State's Attorneys Appellate
8 Prosecutor, the Attorney General, and the State Treasurer.
9 The State Appellate Defender shall receive an appropriation
10 from the Trust Fund to enable it to provide assistance to
11 appointed defense counsel throughout the State and to Public
12 Defenders in counties other than Cook. The State's Attorneys
13 Appellate Prosecutor and the Attorney General shall receive
14 appropriations from the Trust Fund to enable them to provide
15 assistance to State's Attorneys in counties other than Cook
16 County and when the Attorney General is ordered by the
17 presiding judge of the Criminal Division of the Circuit Court
18 of Cook County to prosecute or supervise the prosecution of
19 Cook County cases. Moneys shall be appropriated to the State
20 Treasurer to enable the Treasurer (i) to make grants to Cook
21 County, (ii) to pay the expenses of Public Defenders and
22 State's Attorneys in counties other than Cook County, (iii)
23 to pay the expenses and compensation of appointed defense
24 counsel in counties other than Cook County, and (iv) to pay
25 the costs of administering the Trust Fund. All expenditures
26 and grants made from the Trust Fund shall be subject to audit
27 by the Auditor General.

28 (g) For Cook County, grants from the Trust Fund shall be
29 made and administered as follows:

30 (1) For each State fiscal year, the State's
31 Attorney and Public Defender must each make a separate
32 application to the State Treasurer for capital litigation
33 grants.

34 (2) The State Treasurer shall establish rules and

1 procedures for grant applications. The rules shall
2 require the Cook County Treasurer as the grant recipient
3 to report on a periodic basis to the State Treasurer how
4 much of the grant has been expended, how much of the
5 grant is remaining, and the purposes for which the grant
6 has been used. The rules may also require the Cook
7 County Treasurer to certify on a periodic basis that
8 expenditures of the funds have been made for expenses
9 that are reasonable, necessary, and appropriate for
10 payment from the Trust Fund.

11 (3) The State Treasurer shall make the grants to
12 the Cook County Treasurer as soon as possible after the
13 beginning of the State fiscal year.

14 (4) The State's Attorney or Public Defender may
15 apply for supplemental grants during the fiscal year.

16 (5) Grant moneys shall be paid to the Cook County
17 Treasurer in block grants and held in separate accounts
18 for the State's Attorney, the Public Defender, and court
19 appointed defense counsel other than the Cook County
20 Public Defender, respectively, for the designated fiscal
21 year, and are not subject to county appropriation.

22 (6) Expenditure of grant moneys under this
23 subsection (g) is subject to audit by the Auditor
24 General.

25 (7) The Cook County Treasurer shall immediately
26 make payment from the appropriate separate account in the
27 county treasury for capital litigation expenses to the
28 State's Attorney, Public Defender, or court appointed
29 defense counsel other than the Public Defender, as the
30 case may be, upon order of the State's Attorney, Public
31 Defender or the court, respectively.

32 (h) If a defendant in a capital case in Cook County is
33 represented by court appointed counsel other than the Cook
34 County Public Defender, the appointed counsel shall petition

1 the court for an order directing the Cook County Treasurer to
2 pay the court appointed counsel's reasonable and necessary
3 compensation and capital litigation expenses from grant
4 moneys provided from the Trust Fund. These petitions shall be
5 considered in camera. Orders denying petitions for
6 compensation or expenses are final. Counsel may not petition
7 for expenses that may have been provided or compensated by
8 the State Appellate Defender under item (c)(5) of Section 10
9 of the State Appellate Defender Act.

10 (i) In counties other than Cook County, and when the
11 Attorney General is ordered by the presiding judge of the
12 Criminal Division of the Circuit Court of Cook County to
13 prosecute or supervise the prosecution of Cook County cases,
14 and excluding capital litigation expenses or services that
15 may have been provided by the State Appellate Defender under
16 item (c)(5) of Section 10 of the State Appellate Defender
17 Act:

18 (1) Upon certification by the circuit court, on a
19 form created by the State Treasurer, that all or a
20 portion of the expenses are reasonable, necessary, and
21 appropriate for payment from the Trust Fund and the
22 court's delivery of the certification to the Treasurer,
23 the Treasurer shall pay the certified expenses of Public
24 Defenders from the money appropriated to the Treasurer
25 for capital litigation expenses of Public Defenders in
26 any county other than Cook County, if there are
27 sufficient moneys in the Trust Fund to pay the expenses.

28 (2) If a defendant in a capital case is represented
29 by court appointed counsel other than the Public
30 Defender, the appointed counsel shall petition the court
31 to certify compensation and capital litigation expenses
32 including, but not limited to, investigatory and other
33 assistance, expert, forensic, and other witnesses, and
34 mitigation specialists as reasonable, necessary, and

1 appropriate for payment from the Trust Fund. Upon
2 certification on a form created by the State Treasurer of
3 all or a portion of the compensation and expenses
4 certified as reasonable, necessary, and appropriate for
5 payment from the Trust Fund and the court's delivery of
6 the certification to the Treasurer, the State Treasurer
7 shall pay the certified compensation and expenses from
8 the money appropriated to the Treasurer for that purpose,
9 if there are sufficient moneys in the Trust Fund to make
10 those payments.

11 (3) A petition for capital litigation expenses
12 under this subsection shall be considered in camera.
13 Orders denying petitions for compensation or expenses are
14 final.

15 (j) If the Trust Fund is discontinued or dissolved by an
16 Act of the General Assembly or by operation of law, any
17 balance remaining in the Trust Fund shall be returned to the
18 General Revenue Fund after deduction of administrative costs,
19 any other provision of this Act to the contrary
20 notwithstanding.

21 (Source: P.A. 91-589, eff. 1-1-00.)"